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October 6, 1982

Lawrence E. Heller, Esq.  
LENSKE, LENSKE, HELLER & MAGASIN  
6400 Canoga Avenue  
Suite 315  
Woodland Hills, California 91367

REPLY TO: Woodland Hills

Re: Church of Scientology of California, Inc.  
v. Gerald Armstrong, et al.

Dear Mr. Heller:

I am in receipt of your letter of October 4, 1982 regarding the deposition of L. Ron Hubbard presently noticed in our office for October 26, 1982 at 10:00 a.m. There are several points raised in your letter to which I will respond.

You are correct in stating that no subpoena was attached to the Notice of Taking Deposition. The deposition is not being taken pursuant to subpoena. The Code of Civil Procedure, Section 2019(a)(4) provides, in pertinent part, that when taking the deposition of a person "for whose immediate benefit an action or proceeding is prosecuted" (emphasis added), service of a subpoena upon the person is not required if proper notice is given to the "attorney of the party prosecuting or defending the action or proceeding for the immediate benefit of the deponent".

It is our position that all counsel representing the Church of Scientology of California are prosecuting the above-referenced action for the "immediate benefit" of L. Ron Hubbard. As you know, your client submitted the declaration of Andrew M. Lenarcic in support of a Motion for Reconsideration, in which Mr. Lenarcic stated the following:



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"3. Of the documents and artifacts which exist in the archives (all of which concern or deal with L. Ron Hubbard), more than 80% are owned by the Church . . . The remaining, approximately 20%, is L. Ron Hubbard's personal property entrusted to the Church for its use as it sees fit.

4. Since Mr. Hubbard is the Founder of the religious philosophy and technology of Dianetics and Scientology, our Church membership has a profound spiritual interest in his works, his reputation and his well-being."

I do not quote this portion of Mr. Lenarcic's declaration because I believe it to be fact, but only because it clearly illustrates that your client admits that at least 20% of the documents belong to L. Ron Hubbard, and that your client has an interest in what happens to the works of L. Ron Hubbard, his reputation and his well-being. The statement made by Mr. Lenarcic was repeatedly echoed in your client's Memorandum in Support of the Order to Show Cause re Preliminary Injunction.

There is no question that litigation of this matter by your client will inure to the immediate benefit of L. Ron Hubbard, should your client prevail. In that regard, C.C.P. Section 2019(a)(4) is applicable, and it is sufficient that notice has been served on all counsel for the Church of Scientology of California. We expect that counsel for the Church will produce Mr. Hubbard for the deposition.

You have indicated that none of the counsel for the Church have any knowledge as to the whereabouts of Mr. Hubbard. Knowledge of his whereabouts is not limited to counsel, but extends also to your client, who has brought the instant action. Surely representatives of your client must have some idea as to Mr. Hubbard's whereabouts.

Contrary to your letter, I have not "misinterpreted" any state procedural requirement for the taking of a deposition, nor have I "misconstrued" any oral conversations. The Notice was prepared and served in good faith pursuant to C.C.P. 2019(a)(4) based upon the representations of your client with respect to its interest in and relation to L. Ron Hubbard in the instant action.

Very truly yours,

CONTOS & BUNCH

JULIA DRAGOJEVIC

JD:pjw

cc: Carl Kohlweck  
John Peterson  
Michael Flynn